IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 23885 of 2004

Between:

K. Sekhar Reddy S/o Venkata Subba Reddy,
R/o Atmakur (N), Nellore District

..... PETITIONER

AND

The Depot Manager, APSRTC., Atmakur (N) Depot, Nellore District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, or order or directions, more in the nature of Writ of Mandamus, declaring the office order No.: M1/2(9)/96-ATMR (N) dated 9-1097 as illegal and arbitrary and set aside the same with all consequential benefits including arrears and pass such other order or orders.

Counsel for the Petitioner: MR.P.GOVINDA RAJULU

Counsel for the Respondent: MR.R.MANMADHA REDDY (SC FOR APSRTC)

The Court at the stage of admission made the following:

ORDER:

The petitioner is working as a Driver in the respondent-Corporation. He was issued a charge memo on 05-04-1997 and after receiving the explanation of the petitioner, the final orders were passed on 09-10-1997 imposing the punishment of deferment of annual increments of the petitioner for a period of two years. The petitioner questioned the order on the ground that postponing the annual increments without conducting a regular enquiry in the department itself is bad and contrary to the Rules and Regulations.

2. The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 7 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of non-conducting of enquiries, in view of the judgment of the Supreme Court in **Kulwant Singh Gill (**1 supra), but considering the peculiar facts of the case, I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two increments without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of two increments without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. No order as to costs.

22nd December, 2004. ----------

SKM K.C.BHANU, J

TO

1 The Depot Manager, APSRTC., Atmakur (N) Depot, Nellore District

2 Two C.D. Copies.